PRE-APPEAL BRIEF REQUEST FOR REVIEW

	Docket Number (Optional)
	42390P12266

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>December 20, 2005</u>.

Application No.	Filed
09/965, 579	September 26, 2001

First Named Inventor
Linden Minnick

Signature

Typed or printed name Theresa Belland

Art Unit	Examiner
2137	Michael J. Pyzocha

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
    NOTE: No more than five (5) pages may be provided.

I am the:

[ ] applicant/inventor.

[ ] assignee of record of the entire interest.
    See 37 CFR 3.71. Statement under of 37 CFR 3.73(b) is enclosed.
    (Form PTO/SB/96)

[X] Attorney or agent of record.
    Registration Number 54,962

[ ] attorney or agent acting under 37 CFR 1.34.
    Registration number if acting under 37 CFR 1.34 _____

Signature

Vincent H. Anderson
Typed or printed name

(503) 439-8778
Telephone Number

December 20, 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

[ ] *Total of _____ forms are submitted.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Examiner: Michael J. Pyzocha
)	
Minnick)	Art Unit: 2137
)	
Application No: 09/965,579)	
)	
Filed: September 26, 2001)	
)	
For: SECURITY ASSOCIATION)	
MANAGEMENT THROUGH THE USE)	
OF LOOKUP TABLES)	

Mail Stop AF
Assistant Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Advisory Office Action mailed November 7, 2005 and the Final Office Action mailed August 22, 2005, and in conjunction with the Notice of Appeal filed concurrently herewith, Applicant respectfully requests review of the Final rejection of the claims of the above referenced application in view of the following.

Claims 1, 12, 23, and 34 are the independent claims pending in the above-referenced patent application. Applicant understands that new policy has been promulgated wherein claims directed to a data signal embodied in a communications medium are generally not considered patentable subject matter. In an effort to focus the review of this Request, and in an effort to expedite prosecution of the above-referenced application, Applicant respectfully requests that claim 23 be withdrawn from consideration, along with claims 24-33 that depend from claim 23. Thus, claims 1, 12, and 34 are the subject of this Request. The Advisory Action mailed November 7, 2005 (the Advisory Action) maintained the Final rejection of these claims under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,505,192 of Godwin et al. (*Godwin*) in view of U.S. Patent No. 6,763,394 of Tuck, III et al. (*Tuck*), and further in view of a webpage based upon an article "Monitoring Ethernet Network Activity with NDIS Drivers" of Apparna et al. (*Apparna*), as set forth in the Final Office Action mailed August 22, 2005 (the Final OA). Collectively the Final OA and the Advisory Action may be referred to as the Office Actions.

Applicant maintains that the Office Actions have failed to set forth a prima facie case of obviousness under MPEP § 2143 at least for failing to set forth each and every element of the claimed invention, and that the cited references fail to support an obviousness rejection of the claims at least because they fail to set forth at least one element of the invention as recited in the independent claims. Additionally, Applicant submits that the references are not properly combinable to support the assertions made in the Office Actions.

Regarding the combination of the references, Applicant stated in the Response to the Final OA that the rejection is based upon impermissible hindsight, using Applicant's application as a reconstructive guide to suggest the combination of the elements from the various references. Applicant submits that one skilled in the art would **not** have looked to combine the references as set forth in the Final Office Action.

Regarding the references themselves, as Applicant has understood the references:

Godwin discusses using a pseudo-connection memory block to store address and port information for packets to reduce search time for this information. In this way information can be cached and searched. See Abstract; col. 2, line 29 to col. 4, line 67.

Tuck discusses determining in a network router whether to pass packets from an ingress port to an egress port, or whether to drop the packets. See Abstract. Thus, the discussion of ingress and egress pass/drop lookups being made separately is made only in reference to a

network router, and has no application to packets received at a device driver. Furthermore, the reference discusses pass and drop lookups in the router, and fails to disclose or suggest the association of a security association with the packets. The "rules" mentioned by the reference are only mentioned in terms of rules for determining whether to pass or drop a packet. See col. 2, lines 52 to 67. The rules do not relate to the application of cryptographic operations on a packet, as would be understood by one skilled in the art through the use of the term "security association." Neither the Final OA nor the Advisory Action make an attempt to provide reasoning why a discussion of a determination to pass or drop a packet from one part of a router to another would have any application to a discussion according to *Godwin* of storing address and port information for packets, or storing security associations as recited in the claimed invention. The Advisory Action merely states that both references determine whether to drop packets and so they are combinable. Applicant notes that the Office Actions rely on *Tuck* at col. 5, lines 28 to 38 as motivation to use multiple rather than a single table. Applicant submits that the part relied on in the Office Actions provides no motivation to split ingress and egress tables of SAs as recited in the claims. Rather, the section relied on refers to having tables of rules for whether to drop a packet on ingress or on egress, which the section specifically states are "often independent," which is why the space would be wasted. In contrast, Applicant notes that the same SA is applicable to processing of a packet on ingress **and** egress, making clear that the reference is not applicable to the subject matter of the claimed invention.

The Office Actions have failed to provide reasoning as to why application of rules on whether to drop packets is asserted to be applicable to the obtaining of an appropriate SA to apply to a packet as recited in the claimed invention. Applicant maintains that the references are not applicable to the subject matter of the claimed invention, and the interpretations made in the Office Actions are not supported.

Regarding *Apparna*, this reference refers to a network device driver, and specifically to NDIS. No mention is given within *Apparna* regarding how to process packets, the use of security associations, and/or the storing of security associations in tables. *Apparna* is a general overview of what a device driver is, provides few specifics as to its application or use, and fails to cure the deficiencies of the references mentioned above. Thus, contrary to the assertion in the Final Office Action at pages 3 to 4, no reason is either expressly or implicitly provided within the references that would suggest using a device driver to implement the method of *Godwin*, and

certainly not *Tuck* (which occurs within a network switch, as explained above). Neither the references nor the Office Actions provide any suggestion as to how the method of *Godwin* regarding storing of pseudo-connection address information, nor the method of a switch for determining whether to pass or drop a packet from an ingress port to an egress port, would be desired to be applied in a device driver, nor how they would be accomplished by a device driver, nor why these techniques would supposedly apply to a device driver.

Again, Applicant submits that the only way to reach the conclusions in the Final Office Action is through the use of impermissible hindsight. The Final Office Action has therefore failed to set forth a prima facie case of obviousness of the independent claims under MPEP §§ 2142-2143, at least for failing to set forth a properly combinable set of references. The combination of references used to reject the claims in the Final Office Action results from improper hindsight, and not from the application of knowledge of those skilled in the art at the time of the invention.

Furthermore, regarding application of the references to the claimed invention, Applicant submits that the discussion above reasonably addresses the deficiencies of the rejection of the independent claims. The Office Actions acknowledge that *Godwin* fails to disclose at least one element of the claimed invention, and *Tuck* and *Apparna* fail to cure the deficiency pointed out in the Final OA. *Tuck* fails to disclose or suggest storing of SAs in separate tables for ingress and egress, and the separation of the rules tables in *Tuck* fails to suggest to one of skill in the art that SA tables can be separated, or that it may be desirable to separate the tables. *Godwin* makes no mention of a desirability of changing the traditional methods of searching SA tables. *Apparna* is not cited as curing these deficiencies, nor indeed does the reference cure the deficiencies pointed out above.

Whether alone or in combination, the cited references fail to disclose or suggest at least one element of the claimed invention, and so fail to support a prima facie case of obviousness under MPEP § 2143. Therefore, the independent claims are nonobvious over the primary references. As per MPEP §2143.03, claims depending from nonobvious independent claims are likewise nonobvious. Therefore, Applicant submits that the cited references fail to render obvious the invention as recited in the pending claims.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: _12/19/05_

Vincent H. Anderson
Reg. No. 54,962

12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025-1026
Telephone: (503) 439-8778

I hereby certify that this correspondence is being deposited with the United States Postal service as first class mail on the below date with sufficient postage in an envelope addressed to:
Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450
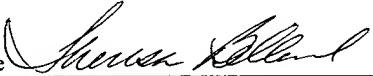
Signature _____ 12/20/05

Theresa Belland   Date